THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.NO.20536 of 2002

DATE: 25.07.2005

Between:

D. Krishnavenamma

……. Petitioner

and

1. Government of Andhra Pradesh rep. By its Secretary, Education Department, Secretariat, Hyderabad and others.

……. Respondents

THE HON'BLE SRI JUSTICE K.C. BHANU

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W.P.NO.20536 of 2002

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ORDER:

The petitioner filed the present writ petition declaring the order, dated 09.08.2002, of the second respondent terminating her from services and order, dated 25.10.1996, of the fifth respondent rejecting the proposals submitted by the third respondent for regularization of her services, as illegal and arbitrary.

The brief facts that are necessary for the disposal of the writ petition are as under:

The petitioner claims that she was appointed as Typist, in pursuance of the orders of the second respondent in Rc.No.B3/1101/88, dated 07.06.1989, on NMR basis, on a daily remuneration of Rs.15/- and the same was enhanced from time to time. While so, the second respondent, through order, dated 18.07.1992, terminated her services and appointed one Balathripura Sundari, widow of N. Satyanarayana Murthy, Grade-I Telugu Pandit, in her place. Assailing the said order, the petitioner filed W.P.No.9760 of 1992. This Court, by its order, dated 21.12.1993, directed the respondents to continue the petitioner as typist in MSN Degree College. Accordingly, she joined duty as typist. Ultimately, this Court disposed of the writ petition with a direction to respondents 2 to 5 to consider the claim of the petitioner for regularization of her services as Typist and pass appropriate orders within a period of two months from the date of receipt of a copy of that order. Despite the said order, the second respondent has not considered her case. Later, the fifth respondent issued proceedings, dated 03.03.1994, to the effect that the petitioner was not selected through employment exchange or through a properly constituted body, that since the procedure for recruitment was not followed and that as she was working only on NMR basis, according to Act 2/94, her request for regularization of services as typist cannot be considered and accordingly rejected her case. In view of the said orders, the second respondent terminated

her from the service with effect from 11.03.1904. Under those circumstances, the petitioner filed W.P.No.7634 of 1994. This Court, through the order, dated 16.06.1995, directed the second respondent to continue her in the same post, subject to the terms and conditions of the appointment, which she had prior to her termination, unless her services are to be terminated for any justifiable reason and till the vacancy is filled up by regular recruitment in accordance with law. It was, however, made clear that the above order shall not come in the way of the Government in considering her claim in accordance with G.O.Ms.No.212, Finance and Planning (FW.P.C.III) Department, dated 22.04.1994. Pursuant to the same, she joined the duty and made a representation on 31.07.1995 to the second respondent to consider her case for regularization of services in the available aided vacancy. The second respondent addressed a detailed letter, dated 06.09.1995, to the fifth respondent recommending her case for regularization. However, the fifth respondent, through his proceedings, dated 22.11.1995, rejected her claim. Aggrieved by the same, the petitioner filed another W.P.No.1183 of 1996. This Court, through its order, dated 06.02.1996, directed the respondents to see that the services of the petitioner are regularized in terms of G.O.Ms.No.212, dated 22.04.1994 within two months from the date of receipt of a copy of that order. As the said order was not complied with, the petitioner filed C.C.No.470 of 1997. Through orders, dated 28.03.1997, the selections to the post of Typist in M.S.N. degree college, Kakinada are stayed and the petitioner was directed to be continued in service. While so, the fifth respondent issued proceedings, dated 25.10.1996, informing the second respondent that the request of the petitioner cannot be considered, in view of the fact that G.O.Ms.No.212, dated 12.04.1994 is not applicable to the private aided colleges. In that view of the matter, the contempt case was closed on 24.06.2002, leaving it open to the petitioner to challenge the validity of the proceedings of the fifth respondent. Consequently, the second respondent issued proceedings, dated 09.08.2002, terminating her from services, without assigning any reasons. Hence, having no other alternative, she approached this Court, by way of filing this writ petition.

The learned counsel for the petitioner contended that despite the specific

directions issued by this Court from time to time to regularize the services of the petitioner, the respondents have not considered the case of the petitioner. He further contended that though the fifth respondent issued proceedings, dated 25.10.1996, rejecting the case of the petitioner, in view of the fact that her case does not fall under the purview of G.O.No.212, dated 22.04.1994, in the light of U.O. Note No.24714/14-A/224/A3/PC III/98, dated 21.08.1998, the respondents ought to have considered the case of the petitioner for regularization of her services.

On the other hand, the learned G.P. for Higher Education contended that the case of the petitioner has been considered in 1996 with reference to G.O.No.212, dated 22.04.1994 and her case was rejected, as she does not fall within the purview of the said G.O. and in that view of the matter, the impugned order does not suffer from any incurable infirmity so as to call for interference by this Court.

The learned standing counsel appearing for Respondents 2 and 3 contended that the proceedings of the second respondent, dated 09.08.2002, terminating the petitioner is consequential to the proceedings of the fifth respondent and therefore it does not suffer from any infirmity.

From a perusal of the record, it is clear that through its order in W.P.No.1183 of 1996, this Court directed the respondents to see that the services of the petitioner are regularized in terms of the above said G.O. within two months from the date of receipt of a copy of that order. Accordingly, the Commissioner of College Education, by his proceedings, dated 25.10.1996 passed the order stating that G.O.No.212, dated 22.04.1994, has no application to the private aided colleges, since they have separate set of rules for recruitment and regularization of services. Hence, the second respondent was directed to fill up the post of typist. As the orders of this Court has been flouted, the petitioner moved C.C.No.470 of 1997 before this Court and the same was closed on 24.06.2002, dropping the further action. Pending the contempt case, there was stay of conducting selections through either written test or oral interview for the

post of Typist. By virtue of these orders, the petitioner continued in the services as typist with the second respondent management. Meanwhile, the Government issued a clarification on 21.08.1998 to the effect that the regularization in respect of non-teaching staff shall be made under the guidelines issued in G.O.Ms.No.212, dated 22.04.1994. In view of the said clarification, the petitioner now contends that her case has to be considered positively. But, as rightly pointed out by the learned Government Pleader, this clarification came into effect with effect from 21.08.1998 and it has no retrospective application. Since the impugned proceedings have been passed in 1996, before the clarification said to have been issued by the Government came into effect, it cannot be said that the impugned proceedings is passed without any basis. The petitioner was initially recruited in 1988 in an unaided vacancy, and by virtue of the orders of this Court, she has been continuing in the services. In view of the same and in view of the subsequent clarification of the Government, dated 21.08.1998, the case of the petitioner has to be considered in accordance with G.O.No.212, dated 22.04.1994.

Hence, the writ petition is disposed of with a direction to the first respondent to take appropriate decision and pass necessary orders, duly considering the case of the petitioner, in view of G.O.Ms.No.212, dated 22.04.1994, within two months from the date of receipt of a copy of this order.

25.07.2005

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